

**From:** [Levine, Carolyn](#)  
**To:** ["Richards, Tina"](#)  
**Subject:** RE: call  
**Date:** Monday, February 08, 2016 10:54:48 AM

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Are you around for a potential call in 5-10 mins?

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*Carolyn Levine*  
*Office of Congressional and Intergovernmental Relations*  
*U.S. EPA*  
*(202) 564-1859*  
*[levine.carolyn@epa.gov](mailto:levine.carolyn@epa.gov)*

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**From:** Richards, Tina [mailto:Tina.Richards@mail.house.gov]  
**Sent:** Monday, February 08, 2016 10:02 AM  
**To:** Levine, Carolyn <Levine.Carolyn@epa.gov>  
**Subject:** Re: call

DB keeps saying that the enforcement authorities/mechanisms available to USACE are the same as EPA because of EO 12580/13016.

The question I am trying to answer is whether the USACE (as the lead agency under EO 12580/13016) can require/order Republic to pay for the cleanup - outside of an after-the-fact cost recovery action - through 106/122? (my "same as" question pertains to the fact that EPA can obviously use 106/122 to get republic to pay for cleanup--can the USACE)

My understanding of the EOs is that because the site is on the NPL, EPA has to "concur" in any use of 106/122 by USACE. I guess it would be helpful too to understand what happens when EPA must "concur" in the issuance of a 106 order or a 122 settlement.

Does that help?

Sent from my iPhone

On Feb 8, 2016, at 9:52 AM, Levine, Carolyn <[Levine.Carolyn@epa.gov](mailto:Levine.Carolyn@epa.gov)> wrote:

Can you clarify this Q, I just want to make sure I fill in any missing words appropriately:

so if the only way USACE can (under FUSRAP) order republic to pay (for the remedy) is basically to get EPA to do it, how can you really say **that the same as what EPA can do to** make republic pay (under CERCLA)?

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*Carolyn Levine*

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*(202) 564-1859*  
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**From:** Richards, Tina [<mailto:Tina.Richards@mail.house.gov>]  
**Sent:** Friday, February 05, 2016 8:45 PM  
**To:** Levine, Carolyn <[Levine.Carolyn@epa.gov](mailto:Levine.Carolyn@epa.gov)>  
**Subject:** Re: call

I just set a call with CRS set for 1:00 on Monday so if we could chat before that on Monday it would be perfect. I have a meeting from 9:00-11:00 but can step out whenever works for you.

P.s. David's latest emails acknowledge that USACE needs EPA to concur in order to take any action under 106/122 - but he's still sticking with the argument that USACE can accomplish same results as EPA. I think I better understand his argument though (I still think he's wrong). **My question to him:**

so if the only way USACE can (under FUSRAP) order republic to pay (for the remedy) is basically to get EPA to do it, how can you really say that the same as what EPA can do to make republic pay (under CERCLA)?

**His response :**

"the practical effect of the remediation could be the same if the Westlake Landfill were transferred from the EPA Superfund program to the Corps FUSRAP program for two basic reasons.

First, the PRPs are currently performing the remediation under EPA enforcement and oversight, and that framework could continue under EPA and Corps cooperation through the FUSRAP program, pursuant to Executive Order 13016 that is intended to “ensure interagency coordination that enhances efficiency and effectiveness.”

Second, the remedial decision of EPA under the Superfund program involves the capping of the landfill, and the remedial decision could remain the same under the Corps FUSRAP program because the same remedy selection criteria of CERCLA and the NCP would apply and because EPA would retain final decision-making authority in selecting remedial actions since the Westlake Landfill is on the NPL.

Sent from my iPhone

On Feb 5, 2016, at 6:21 PM, Levine, Carolyn <[Levine.Carolyn@epa.gov](mailto:Levine.Carolyn@epa.gov)> wrote:

Yep! Have a good weekend.

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Carolyn Levine  
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On Feb 5, 2016, at 6:20 PM, Richards, Tina  
<[Tina.Richards@mail.house.gov](mailto:Tina.Richards@mail.house.gov)> wrote:

Sorry I just saw this - you want to just talk Monday?

Sent from my iPhone

On Feb 5, 2016, at 5:43 PM, Levine, Carolyn  
<[Levine.Carolyn@epa.gov](mailto:Levine.Carolyn@epa.gov)> wrote:

I can talk for a few and pick back up Monday.

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*Carolyn Levine*  
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*(202) 564-1859*  
*[levine.carolyn@epa.gov](mailto:levine.carolyn@epa.gov)*

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**From:** Richards, Tina

[mailto:Tina.Richards@mail.house.gov]

**Sent:** Friday, February 05, 2016 5:42 PM

**To:** Levine, Carolyn <Levine.Carolyn@epa.gov>

**Subject:** Re: call

Okay. I'm above ground now so can talk or can do it Monday - thanks!

Sent from my iPhone

On Feb 5, 2016, at 5:38 PM, Levine, Carolyn <Levine.Carolyn@epa.gov> wrote:

Yes but it's pretty convoluted. Still chatting to try to focus on the statements

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*Office of Congressional and*  
*Intergovernmental Relations*  
*U.S. EPA*  
*(202) 564-1859*  
*levine.carolyn@epa.gov*

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**From:** Richards, Tina  
[mailto:Tina.Richards@mail.house.gov]

**Sent:** Friday, February 05, 2016  
5:37 PM

**To:** Levine, Carolyn  
<Levine.Carolyn@epa.gov>

**Subject:** Re: call

Sorry! I'm on metro but off in 5min is it too late?

Sent from my iPhone

On Feb 5, 2016, at 5:19 PM,  
Levine, Carolyn  
<Levine.Carolyn@epa.gov>  
wrote:

You free for a call in

5 w/ OGC?

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